

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: ) CHAPTER 13  
Carlos G Gildeleyva, aka Carlos Gildeleyba, ) CASE NO. 15 B 43611  
)  
Debtor(s), ) Judge: Donald R. Cassling

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Carlos G Gildeleyva, aka Carlos Gildeleyba, )  
)  
Plaintiff(s), )  
)  
v. ) ADV. NO. \_\_\_\_ AP\_\_\_\_\_  
)  
Citifinancial Services, Inc. )  
and Ditech Financial LLC )  
)  
Defendant(s). )

**COMPLAINT OF THE DEBTOR PURSUANT TO 11 U.S.C. §1322(B) AND  
BANKRUPTCY RULE 3012 TO DETERMINE THE VALUE OF SECURITY AND  
RELEASE OF CITIFINANCIAL SERVICES, INC. AND DITECH FINANCIAL LLC'S  
UNDERLYING LIEN ON DEBTOR'S PROPERTY**

NOW COMES the Plaintiff, Carlos G Gildeleyva, aka Carlos Gildeleyba, by and through his attorneys, Cutler & Associates, Ltd., and states as follows:

1. The Plaintiff filed a petition under Chapter 13 of the U.S. Bankruptcy Code on December 30, 2015.
2. This Honorable Court has jurisdiction pursuant to §157 and §1334 of Title 28, United States Code.
3. This is a core proceeding within the meaning of §157(B)(1) and (2) of Title 28, United States Code.
4. Venue is proper pursuant to §1409 of Title 28, United States Code.
5. This Honorable Court has not confirmed the Plaintiff's Chapter 13 Plan.
6. Plaintiff, Carlos G Gildeleyva, aka Carlos Gildeleyba, is an individual.

7. The Plaintiff is the owner of a house, his principal place of residence, located at 812 S Kendall St, Aurora, IL 60505.
8. That US Bank N.A. holds a first mortgage lien on the real property commonly known as 812 S Kendall St, Aurora, IL 60505 with a secured claim of \$88,961.00.
9. The Defendant holds a second mortgage lien on the real property known as 812 S Kendall St, Aurora, IL 60505 in the amount of \$10,895.00. No proof of claim has been filed by the Defendant.
10. That the value of 812 S Kendall St, Aurora, IL 60505 was \$62,000.00 at the time of case filing.
11. That the secured claim of US Bank N.A. exceeds the value of the subject property, leaving no equity for the Defendant's claim to attach to. Defendant's lien should be canceled pursuant to §1327(b)(2).

WHEREFORE, the Plaintiff, Carlos G Gildeleyva, aka Carlos Gildeleyba, prays this Honorable Court for the following relief:

- A. That this Court holds that the interest of the Defendant with respect to the real estate located at 812 S Kendall St, Aurora, IL 60505, is valued at zero.
- B. The Defendant is ordered to cancel and release the underlying lien on the Plaintiff's real estate, located at 812 S Kendall St, Aurora, IL 60505 and provide to the Plaintiff proof thereof within 30 days after the completion and discharge is granted in the Debtor's Chapter 13 case.
- C. That the Plaintiff has such and other relief as the Court may deem just and proper.

Respectfully submitted,

By: /s/ David H. Cutler  
David H. Cutler, esq.  
Counsel for Debtor(s):  
Cutler & Associates, Ltd.  
4131 Main St,  
Skokie, IL 60076  
Phone: (847) 673-8600